

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

IVAN L. MENDEZ,

Plaintiff,

v.

GUILTY PLEAS OFFERING AND THE
GUILTY PLEAS DEALS,

Defendant.

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: Civ. No. 12-1017-LPS

MEMORANDUM ORDER

At Wilmington this 28th day of February, 2013:

1. Plaintiff, an inmate at the James T. Vaughn Correctional Center in Smyrna, Delaware, has engaged in filing numerous lawsuits that contain frivolous legal arguments and that are vexatious and abusive of the judicial process. These lawsuits all raise issues regarding guilty pleas, guilty plea offers, and/or sentences imposed upon individuals, other than Plaintiff. The lawsuits have been filed against the State of Delaware, individuals who accepted guilty plea offers, and the following unidentified entities: C.W.M.O.T.O.C.O., C.W.M.O.T.C.O., C.W.M., C.W.S., and H.C.W.S.

2. Since June 5, 2012, Plaintiff has filed at least the following lawsuits in this District Court all related to guilty pleas, guilty plea offers, and/or sentences imposed upon individuals other than himself: *Mendez v. C.W.M.O.T.C.O.*, Civ. No. 12-1031-LPS; *Mendez v. C.W.M.O.T.C.O.*, Civ. No. 12-1030-LPS; *Mendez v. C.W.M.O.T.O.C.O.*, Civ. No. 12-1018-LPS; *Mendez v. Guilty Pleas*

Offering and the Guilty Pleas Deals, 12-1017-LPS; *Mendez v. State of Delaware*, Civ. No. 12-997-LPS; *Mendez v. C.W.M.O.T.C.O.*, Civ. No. 12-982-LPS; and *Mendez v. C.W.M.O.T.C.O.*, Civ. No. 12-981-LPS.

3. The Court found Plaintiff's repeated filings vexatious and an abuse of the legal process. On September 6, 2012, the Court ordered Plaintiff to show cause why he should not be enjoined from filing any complaint, lawsuit, or petition for writ of mandamus, regarding guilty pleas, guilty plea offers, or sentences imposed upon any individual, other than Plaintiff, including, but not limited to actions against the State of Delaware, C.W.M.O.T.O.C.O., C.W.M.O.T.C.O., C.W.M., C.W.S., and H.C.W.S. In addition, Plaintiff was ordered to properly identify the entities C.W.M.O.T.O.C.O., C.W.M.O.T.C.O., C.W.M., C.W.S., and H.C.W.S.

4. A district court has the power to enjoin vexatious litigants from filing meritless pleadings where the pleadings raise issues identical or similar to those that have already been adjudicated. *See* 28 U.S.C. § 1651; *Matter of Packer Ave. Assoc.*, 884 F.2d 745, 747 (3d Cir. 1989); *Yadav v. Surtees*, 87 F. App'x 271 (3d Cir. Jan. 27, 2004). The Court, in seeking to enjoin Plaintiff as a vexatious litigant from future joint litigation, provided him sufficient notice and an opportunity to be heard in the form of a show cause order entered September 6, 2012. (*See* D.I. 5; *see also Brow v. Farrelly*, 994 F.2d 1027, 1038 (3d Cir. 1993)) While Plaintiff responded to the Show Cause Order, his response fails to address the concerns of the Court. (*See* D.I. 6) In addition, Plaintiff did not properly identify the entities C.W.M.O.T.O.C.O., C.W.M.O.T.C.O., C.W.M., C.W.S., and H.C.W.S.

5. Plaintiff has failed to show cause why he should not be enjoined from filing any complaint, lawsuit, or petition for writ of mandamus, regarding guilty pleas, guilty plea offers, or sentences imposed upon any individual, other than Plaintiff, including, but not limited to actions against the State of Delaware, C.W.M.O.T.O.C.O., C.W.M.O.T.C.O., C.W.M., C.W.S., and H.C.W.S.

IT IS THEREFORE ORDERED that:

1. Plaintiff is hereby enjoined from filing, without prior authorization of the Court, any complaint, lawsuit, or petition for writ of mandamus, regarding guilty pleas, guilty plea offers, or sentences imposed upon any individual, other than Plaintiff, including, but not limited to actions against the State of Delaware, C.W.M.O.T.O.C.O., C.W.M.O.T.C.O., C.W.M., C.W.S., and H.C.W.S.

2. Plaintiff must file a motion for leave to file with any new complaint, lawsuit, or petition for writ of mandamus, regarding guilty pleas, guilty plea offers, or sentences imposed upon any individual, other than Plaintiff, including, but not limited to actions against the State of Delaware, C.W.M.O.T.O.C.O., C.W.M.O.T.C.O., C.W.M., C.W.S., and H.C.W.S. that he proposes to file and must attach a copy of this memorandum order to it. The motion shall be filed as a miscellaneous case.


3. As an exhibit to any motion seeking such leave, there must be attached a declaration prepared pursuant to 28 U.S.C. § 1746 or a sworn affidavit certifying that (a) the document raises a new issue that has never been previously raised by the filer in this or any other court, (b) the claim or issue is not frivolous, and (c) the document is not filed in bad faith.

4. The Court shall deny any motion for leave to file if the proposed document is frivolous, vexatious, or harassing. If the motion is denied, the document shall not be filed. The failure to comply with this memorandum order shall be sufficient grounds for this Court to deny any motion for leave to file.

5. If the motion for leave to file is granted, Plaintiff shall submit the order as evidence that he has obtained the permission of the Court for the filing.

6. No document submitted by Plaintiff shall be filed prior to obtaining leave to file unless the document is specifically identified as a motion for leave to file, and unless the document contains an affidavit or sworn declaration as required by this memorandum order, and a copy of this memorandum order.

7. The clerk's office shall not accept any filing fees, cover sheets, applications for leave to proceed without prepayment of fees, summonses, or U.S. Marshals forms, in connection with a motion for leave to file, unless and until leave is granted.


UNITED STATES DISTRICT JUDGE